



PERSONNEL POLICIES AND PROCEDURES

Subject: INS EMPLOYMENT ELIGIBILITY VERIFICATION

Effective: 04/15/92

Number: 1.2

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I. POLICY STATEMENT

The City is required by Federal law to verify the work eligibility of newly-hired employees by obtaining a completed I-9 form (Employment Eligibility Verification form) for each employee hired after November 6, 1986.

II. REQUIREMENTS

A. I-9 Completion

An employee is required to complete her/his portion of the I-9 form and provide the document(s) verifying work eligibility ONLY on the date she/he is actually hired. (Hire date is the effective date shown on the HR-1 form.)

Prior to an actual hire, a prospective employee may ONLY be advised that she/he will be required to complete an I-9 form and provide documentation verifying work eligibility. To request this information during any portion of the application process can lead to a charge of discrimination.

B. Documentation Requirements

The form lists the document(s) which are acceptable as proof of work eligibility (see Attachment A).

Only the employee shall designate which document(s) she/he wishes to present. The City may not require a specific document among those listed, nor require additional documents for completing the form, beyond those which establish identity and work authorization.

If the document(s) provided by the employee appear to be genuine and relate to the person, they are to be accepted. There is no requirement, on the part of the City, to verify the authenticity of documents which appear to be genuine.

III. TIME FRAMES**A. New Employee**

A new employee should provide the required document(s) at the time she/he is hired. If unable to comply with this requirement, she/he must be given three days to produce evidence proving she/he has applied for a specific document.

For example, evidence could be a receipt verifying application for a social security card, or a driver's license. It then becomes the employee's responsibility to produce the document itself within 90 days of hire, or face termination.

However, on or before the time employment begins, the employee must have indicated in Section 1 of the I-9 form, that she/he is already eligible to be employed in the United States.

B. Rehired Employee

An employee who is rehired is required to complete a new I-9 form.

IV. NON DISCRIMINATION

Do not discharge a current employee, refuse to appoint a new employee, or otherwise discriminate on the basis of foreign appearance, language, or name. To discriminate against an employee or applicant on the basis of national origin is a Civil Rights Act, Title VII violation.

V. PROCESSING**A. Completed Documentation**

A completed I-9 form and all copies of the documents, which verify authorization to work, are to be attached to the HR-1 and forwarded to the Department of Human Resources and Affirmative Action. These documents are to be used for the purpose of establishing employment eligibility, and are to be retained ONLY with the form. None of these documents are to be placed in an employee's personnel file.

Once Human Resources determines that documentation is complete and

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verified as correct by the departmental Payroll/Personnel Assistant, the form and all copies of documentation are separated from the HR-1 and filed separately by Human Resources.

The form is retained in Human Resources for at least three years. If an employee has worked for the City for more than three years, that individual's form shall be retained in Human Resources for one year following separation from the City.

B. Incomplete Documentation

If an individual is hired with incomplete documentation, she/he must be given three business days in which to present a receipt which verifies application for a specific document. If this is not provided within the three-day period, the employee must be terminated (See Attachment B).

Upon receipt of verification that an employee has applied for a specific document, the City may employ that individual for up to 90 calendar days from date of hire, without being in violation of the law. If the required documentation is not received in Human Resources with the hiring HR-1, the departmental Payroll/Personnel Assistant is immediately notified by memorandum, that documentation must be completed and forwarded to Human Resources within 90 calendar days of hire. A copy of the notice is also sent to the employee (See Attachment C).

If documentation is not received within 30 days of the first notice, Human Resources will notify the employee in writing, that she/he is required to complete the documentation within 90 days of hire. A copy of the notice is also sent to the Payroll/Personnel Assistant and the employee's bureau/division head (See Attachment D).

If the required documentation is not received within 30 days of the second notice, the third and final notice is sent to the department head with a copy to the Payroll/Personnel Assistant, the employee's bureau/division head, and the employee. The notice advises that termination papers must be processed, removing the employee from the payroll within 90 days of hire (See Attachment E). The termination letter then follows (See Attachment F).

These time frames assume that the HR-1 has been promptly forwarded to Human Resources, allowing sufficient time for three notices before the 90 days have lapsed. Should this not be the case, there may only be time for one or two notices prior to termination.

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C. Dated Documentation

If a work authorization expires, the I-9 form must be updated to continue to employ that individual. This means the employee must either present a document that shows an extension of employment eligibility, or a new grant-of-work authorization prior to the expiration date (See Attachment G).

It is important that a departmental Payroll/Personnel Assistant monitor such document(s) and verify either renewal or extension. Human Resources will retain a list of affected employees, and advise the departmental Payroll/Personnel Assistant when the document(s) is due to expire.

Without an extension of employment eligibility, or a new grant-of-work authorization, the employee must be terminated (See Attachment H).

VI. QUESTIONS AND ANSWERS REGARDING THE I-9 FORM

Question: If a job applicant accepts a position with the City but isn't scheduled to begin work for a month, can I complete the I-9 form following acceptance of the job offer?

Answer: Yes. While the law requires completion of the I-9 form when the individual actually begins working, you may request completing the form once he/she accepts the job offer.

Question: May I specify which documents I will accept for verification?

Answer: No. You must accept any document or combination of documents listed on the I-9 form.

Question: What do I do when an employee's work authorization expires?

Answer: You must update the I-9 form if you continue to employ the individual. To maintain continuous employment, an employee should apply for a new work authorization at least 90 days prior to the expiration. At the time of expiration, the employee must present a document that either shows an extension of employment eligibility or a new grant-of-work authorization. If the employee cannot produce such a document, she/he is no longer eligible to work. Continuing to employ such an individual is a violation of Federal law, even if the employee was previously authorized to work.

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Question: May I accept an expired document?

Answer: You may accept an expired United States Passport. You may also accept an expired document from "List B" to establish identity. However, the document must reasonably appear to be genuine and to relate to the person presenting it. You cannot accept any other expired documents.

Question: May I accept a laminated Social Security Card?

Answer: You may not accept a laminated Social Security Card if the card states on the back "not valid if laminated."

Question: May I accept a photocopy of a document presented by an employee?

Answer: No. Employees must present original documents. The only exception is that an employee may present a certified copy of a birth certificate.

Question: Do I need to fill out an I-9 form for an independent contractor or their employees?

Answer: No. For example, if you contract with a company to provide temporary clerical services, that company is responsible for completing the I-9 forms for its own employees.

Question: Are there penalties for failure to have a new employee complete the form?

Answer: There are penalties, both for failure to have an employee complete the form, as well as failure to:

- obtain and verify the required documents within 90 days of hire;
- properly complete the I-9 form;
- retain the form for the specified time;
- present the form upon request to an Immigration and Naturalization Service or Department of Labor Officer.

Violations are subject to penalties of up to \$3000 and/or six months' imprisonment. Persons using fraudulent identification or employment eligibility documents or documents which were issued to another, or who make a false statement or attestation, for purposes of satisfying the employment eligibility requirements, may be imprisoned for up to five years or fined or both.

VII. ATTACHMENTS/FORMS

- A. Employment Eligibility Verification (Form I-9)
- B. Sample "Three-day" Termination Letter
- C. Sample First Notice Memorandum
- D. Sample Second Notice Memorandum
- E. Sample Final Notice Memorandum
- F. Sample "Ninety-Day" Termination Letter
- G. Sample Expiration of INS Right-To-Work Documentation (I-9)
- H. Sample Termination Letter for Failure to Obtain Documentation

ATTACHMENT "B"

SAMPLE TERMINATION LETTER FOR FAILURE TO PROVIDE PROOF OF APPLICATION FOR WORK ELIGIBILITY WITHIN THREE DAYS

DATE

NAME
ADDRESS

SUBJECT:

DEAR _____:

In compliance with the Immigration Reform and Control Act of 1986, Federal law requires that all newly-hired employees provide documentation establishing their identity and work eligibility.

You were hired on (date) and, at that time, you neither provided all required documentation, nor did you provide a receipt showing that you had applied for a (document) on (date). As was stated to you when you were hired, without the required documentation or proof of application for (document), the City may only employ you for a maximum of three days.

Therefore, please be advised that, effective (date), you will be terminated from employment with the City of Long Beach for failure to provide documentation proving your (identity/eligibility to work) in the United States.

NOTE: Following paragraphs to be used for a classified employee only

This action is in accordance with Article VII, Section 84 (1) of the Civil Service Rules and Regulations:

- (1) Violation of any provision of the Charter of the City, the Rules and Regulation of the Commission, or any written departmental rule, regulation, or directive.

Your probationary status precludes appealing this action to the Civil Service Commission. It should be pointed out to you, however, that failure to complete your probationary period does not prevent you from applying for other positions in the City.

I regret that this action is necessary, however continuing to employ an unauthorized employee, could subject the City to civil penalties.

DEPARTMENT HEAD

DATE

I hereby acknowledge receipt of this letter.

cc: Civil Service
City Prosecutor
Human Resources
Departmental personnel file

EMPLOYEE

DATE

ATTACHMENT "C"

DATE

DEPARTMENTAL PAYROLL/PERSONNEL ASSISTANT(S)

MAY JONG, ADMINISTRATIVE AIDE, HUMAN RESOURCES

INCOMPLETE INS DOCUMENTATION (I-9)

FIRST NOTICE

In compliance with the Immigration Reform and Control Act of 1986, Federal law requires that all newly-hired employees provide proof of their legal right to work in the United States. This proof must be received within 90 days following the date of hire.

Our records indicate that the following employee within your department is not in compliance.

EMPLOYEE NAME

HIRE DATE

Please contact the employee, obtain the necessary documentation, and forward it to this department as soon as possible. Without proof that this employee is legally entitled to work in the United States, the City has no alternative but to terminate her/his employment.

Please call me at 570-6241, if you have any questions.

MJ/Im

cc: Employee
Departmental personnel file

ATTACHMENT "D"

DATE

EMPLOYEE

MAY JONG, ADMINISTRATIVE AIDE, HUMAN RESOURCES

INCOMPLETE INS DOCUMENTATION (I-9)

SECOND NOTICE

At the time you were hired, you were informed that Federal law requires that all newly-hired employees provide documentation establishing their identity and work eligibility. You submitted (document) to your Payroll/Personnel Assistant, indicating that you had applied for a (document). However, we have no record that you have since produced the document.

Please be advised that, if proof is not received within 90 days of your date of hire, the City will have no option but to terminate your employment.

Please call me at 570-6241, if you have any questions.

MJ/Im

cc: Departmental Payroll/Personnel Assistant
Employee's Bureau/Division Head

ATTACHMENT "E"

DATE

DEPARTMENT HEAD

MAY JONG, ADMINISTRATIVE AIDE, HUMAN RESOURCES

INCOMPLETE INS DOCUMENTATION (I-9)

FINAL NOTICE

In compliance with the Immigration Reform and Control Act of 1986, Federal law requires that all newly-hired employees provide documentation establishing their identity and work eligibility. This proof must be received within 90 days of the date of hire.

Our records indicate that (employee name & title), an employee in your department, has not provided the necessary documentation to prove her/his right to work.

Please be advised that, lacking the required documentation, the City has no alternative but to terminate (employee), effective (date). Therefore, we ask that you immediately begin proceedings for termination.

Please call May Jong at 570-6241, if you have any questions.

Mj/lm

cc: Departmental Payroll/Personnel Assistant
Employee's Bureau/Division Head
Employee

ATTACHMENT "F"

SAMPLE TERMINATION LETTER FOR FAILURE TO PROVIDE INS DOCUMENTATION WITHIN NINETY DAYS

DATE

NAME
ADDRESS

SUBJECT:

DEAR _____:

In compliance with the Immigration Reform and Control Act of 1986 Federal Law, the City requires that all newly-hired employees provide documentation establishing their identity and work eligibility.

You were hired on (date) and, at that time, you were unable to provide all required documentation. You did provide us with a receipt showing you had applied for a (document) on (date). As was stated in our notices to you dated _____ and _____, without the required documentation, the City may only employ you for a maximum of 90 days from date of hire.

Therefore, please be advised that, effective (date), you will be terminated from employment with the City of Long Beach for failure to provide documentation proving your (identity/eligibility to work) in the United States.

NOTE: Following paragraphs to be used for a classified employee only.

This action is in accordance with Article VII, Section 84 (1) of the Civil Service Rules and Regulations:

- (I) Violation of any provision of the Charter of the City, the Rules and Regulations of the Commission, or any written departmental rule, regulation, or directive.

Your probationary status precludes appealing this action to the Civil Service Commission. It should be pointed out to you, however, that failure to complete your probationary period does not prevent you from applying for other positions in the City.

I regret that this action is necessary, however continuing to employ an unauthorized employee, could subject the City to civil penalties.

DEPARTMENT HEAD _____ DATE _____

cc: Civil Service
City Prosecutor
Human Resources
Departmental Personnel file

I hereby acknowledge receipt of this letter.

EMPLOYEE SIGNATURE

ATTACHMENT "G"

DATE (30 days prior to expiration date)

DEPARTMENTAL PAYROLL/PERSONNEL ASSISTANT (S)

MAY JONG, ADMINISTRATIVE AIDE, HUMAN RESOURCES

EXPIRATION OF INS RIGHT-TO-WORK DOCUMENTATION (I-9)

Our records indicate that the work authorization for (employee), will expire on (date). At that time, (she/he) must either present a document that shows an extension of employment eligibility, or a new grant-of-work authorization. Without it, the employee is no longer eligible to work, and must be terminated on the expiration date.

Please immediately contact the employee, advising her/him of the need for (extension of employment eligibility/grant-of-work authorization).

Please call me at 570-6241, if you have any questions.

MJ/lm

cc: Employee's Bureau/Division Head
Employee

ATTACHMENT "H"

SAMPLE TERMINATION LETTER FOR FAILURE TO OBTAIN (EXTENSION OF EMPLOYMENT/ GRANT-OF-WORK AUTHORIZATION)

DATE

NAME
ADDRESS

SUBJECT:

DEAR _____:

In compliance with the Immigration Reform and Control Act of 1986, Federal law requires that employees hired after November 6, 1986, provide documentation establishing their identity and work eligibility.

Our records indicate that your work authorization will expire on (date). Without a new (grant-of-work authorization/extension of employment eligibility), you will no longer be eligible to work for the City of Long Beach. Therefore, please be advised that, effective (date), you will be terminated from employment with the City of Long Beach for failure to provide documentation proving your eligibility to work in the United States.

NOTE: Following paragraphs to be used for a classified employee only

This action is in accordance with Article VII, Section 84 (1) of the Civil Service Rules and Regulations:

- (1) Violation of any provision of the Charter of the City, the Rules and Regulation of the Commission, or any written departmental rule, regulation, or directive.

Your probationary status precludes appealing this action to the Civil Service Commission. It should be pointed out to you, however, that failure to complete your probationary period does not prevent you from applying for other positions in the City.

I regret that this action is necessary, however, continuing to employ an unauthorized employee, could subject the City to civil penalties.

DEPARTMENT HEAD

DATE

I hereby acknowledge receipt of this letter.

cc: Civil Service
City Prosecutor
Human Resources
Dept. personnel file

EMPLOYEE

DATE